IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO. 258 OF 2005 & WRIT PETITION NO. 803 OF 2005

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WRIT APPEAL NO : 258 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 08/02/2005 in W.P.M.P No. 1056 of 2005 in WP No : 803 OF 2005 on the file of the High Court.)

Between:

Alapati Ramesh Kumar, S/o. Narayana Murthy,

R/o. Ponnuru, Guntur District.

..... APPELLANT

AND

1. Murthy Mahal Theatre, Ponnuru, Guntur District,

Rep by its Managing Partner, Katragadda Kishore Kumar,

S/o. Siva Prasad Rao, aged 42 years, R/o. Nidubrolu,

Ponnuru Mandal, Guntur District.
2 The Joint Collector & Licensing Authority, (Cinemas),

Guntur District.
3 The Revenue Divisional Officer, Tenali, Guntur District.
4 The Mandal Revenue Officer, Ponnuru Mandal, Ponnuru,

Guntur District.

.....RESPONDENTS

For the Appellant: MR. K. Durga Prasad, Advocate.

For Respondent No. 1: Smt. Jyothi Eswar Gogineni.

For Respondent Nos. 2 to 4: Government Pleader for Home.

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WRIT PETITION NO : 803 of 2005

Between:

Murthy Mahal Theatre-Ponnuru, Guntur District,

Rep. by its Managing Partner, Katragadda Kishore Kumar,

S/o. Sivaprasad Rao, Aged 42 Years, R/o. Nidubrolu,

Ponnuru Mandal, Guntur District.

..... PETITIONER

AND

1. The Joint Collector & Licensing Authority (Cinema),

Guntur District.

2 The Revenue Divisional Officer, Tenali, Guntur District.

3 The Mandal Revenue Officer, Ponnuru Mandal, Ponnuru,

Guntur District.

4 Alapati Ramesh Kumar, S/o. Narayanmurthy,
R/o. Ponnuru, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDMAUS, declaring that the action of the respondents in issuing the impugned proceedings No.235/2004-C1, dated 4-1-2005, without considering petitioner representations and is arbitrary, unconstitutional, and illegal and to further direct the

respondents to release the seal, and to pass such other appropriate order or orders.

For the Petitioner: Smt. Jyothi Eswar Gogineni, Advocate.

For Respondent Nos.1 to 3: GP FOR HOME.

For Respondent No. 4: Mr. K. Durga Prasad, Advocate.

The Court made the following :

COMMON JUDGMENT: (per Sri B. Sudershan Reddy, J)

Learned counsel for the writ appellant; learned counsel for the respondent – writ petitioner and the learned Government Pleader requested the Court to dispose of the writ petition itself on merits. We have accordingly taken up the writ petition as well as the writ appeal for hearing and disposal.

The writ appeal arises out of the interlocutory order
dated 08-02-2005 made in W.P.M.P No. 1056 of 2005 in W.P No. 803 of 2005 passed by a learned single Judge of this Court.

The writ petition is directed against the order
dated 04-01-2005 passed by the Joint Collector and Licensing Authority (Cinema), Guntur whereunder and whereby the Joint Collector directed the exhibition of the cinemas in Murthy Mahal, Ponnur to be stopped forthwith and a seal to be put on the theatre by the Mandal Revenue Officer.

The only question that falls for our consideration is whether the order passed

by the Joint Collector suffers from any infirmities requiring our interference.

The writ petitioner claims to have purchased Murthy Mahal Theatre, Ponnur on 14-02-2000 by paying an amount of Rs.8,15,000/- and also claims to have entered into an agreement of sale with one Alapati Ramesh Kumar, the 4th respondent in the writ petition and the appellant in the writ appeal and one Alapati Venkatanaga Radhakrishnamurthy who are the joint owners of the said property. There is any amount of dispute about the assertion made by the petitioner of having purchased the property. The fact remains that even according to the averments made in the affidavit the said Alapati Venkatanaga Radhakrishnamurthy conveyed half of share alleged to have been owned by him in the theatre under the document dated 08-04-2004. That itself would show that the writ petitioner had not obtained the complete rights over the property in question. Be it as it may, it is asserted that the writ petitioner having taken possession of the theatre was running it from 10-04-2002 by clearing all the dues. The 'B' form licence which was valid up to 30-04-2003 is not yet renewed. It is asserted that the petitioner filed application before the Revenue Divisional Officer, Tenali on 17-05-2003 for renewal of licence for the year 2003-04. However, the learned counsel for the petitioner states that the application was filed much before the expiry of licence about which we need not express our opinion.

There is no dispute whatsoever that the 4th respondent – writ appellant filed O.S No. 65 of 2003 on the file of the learned Senior Civil Judge, Bapatla and obtained an injunction in I.A No. 1200 to 1202 of 2003 on 16-12-2003 restraining the authorities from issuing and renewing the 'B' form licence in respect of the theatre in question. That injunction order is still subsisting.

The 4th respondent – writ appellant filed an application before the Joint Collector with a prayer to stop the screening of the pictures by the writ petitioner herein since no valid licence has been granted in his favour for running the theatre. That application was kept pending without initiating any action. The 4th respondent – writ appellant filed W.P No. 14708 of 2004 complaining about the inaction on the part of the Joint Collector in disposing of the application. This Court disposed of the said

writ petition vide order dated 19-08-2004 directing the Joint Collector to take an appropriate decision in the matter and dispose of the representation made by the 4th respondent – writ appellant. That is how the Joint Collector had taken up the matter for consideration. The Joint Collector after providing an opportunity of being heard to the parties came to the conclusion that exhibition of cinemas in Murthy Mahal, Ponnur cannot be permitted and no pictures would be screened without there being any valid licence in favour of the writ petitioner. This order is impugned in the writ petition on various grounds.

The fact remains that as on today, there is no 'B' form licence in favour of the writ petitioner. We do not propose to express any opinion whatsoever whether the applications, if any, filed by the writ petitioner seeking renewal of 'B' form licence are pending before the Revenue Divisional Officer or the Joint Collector, as the case may be. But the fact remains that there is no valid licence granted in favour of any of the parties to screen the pictures. It is under those circumstances, the Joint Collector came to the right conclusion that screening of pictures/cinemas without there being a valid licence granted in favour of the writ petitioner is impermissible. We do not find ay legal infirmity in the order passed by the Joint Collector. We cannot permit the writ petitioner or for that matter, the 4th respondent – writ appellant to screen the films in the theatre in the absence of any valid licence granted under the relevant provisions. No case is made out requiring our interference with the order passed by the Joint Collector.

Learned counsel for the writ petitioner – Jyothi Eswar, however, submits that the applications filed by the petitioner for renewal and as well as transfer of licence are pending before the Revenue Divisional Officer and the same are required to be disposed of. The learned counsel for the 4th respondent – writ appellant Mr. K. Durga Prasad, however, submits that no such applications have been filed by the petitioner and pending before the Revenue Divisional Officer.

It is totally unnecessary to go into this aspect of the matter. It is needless to direct that if any such applications are pending before the Revenue Divisional Officer or the Joint Collector, as the case may be, the same may have to be

considered and disposed of in accordance with law. But even before the grant of any licence, the petitioner under no circumstances can be permitted to run the theatre and exhibit the films.

For the aforesaid reasons, we find no merit in the writ petition. The order passed by the Joint Collector does not suffer from any legal infirmity. The Writ Petition shall accordingly stand dismissed without any order as to costs.

It is brought to our notice that pursuant to the interim order passed by the learned single Judge, licence has been renewed up to 30-03-2005. In view of our order dismissing the writ petition, the interlocutory order passed by the learned single Judge shall also get merged into the order passed in the writ petition. Therefore, the writ petitioner shall not be entitled to the benefit of the interim order as well as the licence, if any granted by the Revenue Divisional Officer pursuant to the interim order of this Court.

The Writ Appeal is disposed of dissolving the interlocutory order passed by the learned single Judge. No order as to costs.

However, pending applications if any filed by the writ petitioner may have to be considered on its own merits in accordance with law for which purposes the 4th respondent – writ appellant also shall be given notice and an opportunity of being heard, before any decision is taken in the matter.

(B. Sudershan Reddy, J)

18-03-2005

(C.V. Ramulu, J)

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To

1 The Joint Collector & Licensing Authority, (Cinemas),

Guntur District.

2 The Revenue Divisional Officer, Tenali, Guntur District.

3 The Mandal Revenue Officer, Ponnuru Mandal, Ponnuru,

Guntur District.

4. Two CCs to the Government Pleader for Home, High Court of Andhra Pradesh, Hyderabad (OUT).

5. Two CD copies.